

**- 7 Pages Total -**

February 14, 2006

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

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**FEB 14 2006**

Re: Applicant(s): Yencho, Stephen A.; et. al.  
Assignee: Cardica, Inc.  
Title: Superelastic Anastomosis Device  
Serial No.: 10/810,170  
Examiner: Michael G. Mendoza  
Docket No.: 152

Filed: March 26, 2004  
Group Art Unit: 3731

Transmitted herewith are the following documents in the above-identified application:

- (1) This Transmittal Letter;
- (2) Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a), including two exhibits;
- (3) Return postcard.

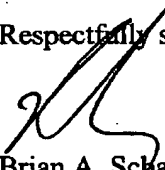
<input checked="" type="checkbox"/>	Petition fee under 37 CFR 1.17(h)	\$	130.00
<b>Total additional fee for this Amendment:</b>		\$	0.00
<input checked="" type="checkbox"/>	Conditional Petition for Extension of Time: If an extension of time is required for timely filing of the enclosed document(s) after all papers filed with this transmittal have been considered, an extension of time is hereby requested.		
<input checked="" type="checkbox"/>	Please charge our Deposit Account No. 502108 in the amount of	\$	130.00
<input checked="" type="checkbox"/>	Please charge any additional fees required and credit any overpayment to our Deposit Account No. 502108.		
<b>Total:</b>		\$	130.00

**Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the U.S Patent and Trademark Office (Fax No. (571) 273-8300) on February 14, 2006.

  
Brian Schar

Respectfully submitted,

  
Brian A. Schar  
Reg. No. 45,076  
Chief Patent Counsel  
Cardica, Inc.  
900 Saginaw Drive  
Redwood City, CA 94063  
(650) 331-7162

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Yencho, Stephen A.; et. al.

Assignee: Cardica, Inc.

Title: Superelastic Anastomosis Device

Serial No.: 10/810,170

Filing Date: March 26, 2004

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FEB 14 2006

February 14, 2006

Mail Stop Petition  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450**PETITION TO REVIVE UNINTENTIONALLY-ABANDONED  
PATENT APPLICATION UNDER 37 CFR 1.181(a)**

This petition is in response to the Notice of Abandonment of February 8, 2006, a copy of which is attached to this petition as Exhibit 1. The Notice of Abandonment stated that abandonment resulted from "failure to timely file a proper reply to the Office letter mailed on 29 July 2005." However, the Office Action mailed on July 29, 2005 ("Office Action") was not received by Cardica's attorney. Consequently, Cardica's attorney respectfully petitions the USPTO to withdraw the holding of abandonment in this patent application.

A search of the file jacket and docket records indicated that the Office Action was not received. A copy of the docket record from Cardica's attorney is attached as Exhibit 2, in accordance with the requirements of MPEP 711.03(c)(I)(A). Cardica's attorney utilizes the web-based Foundation IP application to docket responses, and Exhibit 2 is a printout of the web page in Foundation IP for this patent application. As seen in the docket record of Exhibit 2, no reply is docketed for this application at any time within three months after July 29, 2005, the date of the Office Action.

02/16/2006 AMONDAF1 00000018 502108 10810170

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Because Cardica's attorney never received the Office Action in this application, as proven by this Petition, Cardica requests that the holding of abandonment be withdrawn, and that the Office Action be sent to the correspondence address of record, which should match the address provided below. Please charge the petition fee under 37 CFR 1.17(h) to Deposit Account No. 502108, and please charge any underpayment or credit any overpayment to that deposit account.

Please contact the undersigned if there are any questions.

Respectfully submitted,



Brian A. Schar  
Attorney for Cardica, Inc.  
Reg. No. 45,076  
900 Saginaw Drive  
Redwood City, CA 94063  
(650) 331-7162

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# Exhibit 1

**BEST AVAILABLE COPY**

**Notice of Abandonment**

Application No.

10/810,170

Applicant(s)

YENCHO ET AL.

Examiner

Michael G. Mendoza

Art Unit


3731

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 29 July 2005.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

In a telephone conversation 2/3/2006 Brian Schar stated that no reply has been sent in response to the Office Action Mailed out on 7/29/2005.

  
GLENN K. DAWSON  
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office  
PTOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 02032006

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## **Exhibit 2**

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**Matter****Edit**

<b>Title:</b>	Implantable Superelastic Anastomosis Device	<b>File #:</b>	152
<b>Type:</b>	Utility - CON	<b>Country:</b>	United States of
<b>Applicant:</b>	Cardica Inc.	<b>Applicant File #:</b>	152
<b>FIP ID:</b>	118307	<b>Publication Date:</b>	Sep 16, 2004
<b>Status:</b>	Pending	<b>Matter Entity Size:</b>	Small
<b>Date Filed:</b>	Mar 26, 2004	<b>Issue Date:</b>	
<b>Serial #:</b>	10/810,170	<b>Patent #:</b>	
<b>Prototype:</b>	No	<b>Default category prototype:</b>	No

Created by: Brian Schar, Nov 18, 2004 Hosted By: Cardica Inc.

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<input type="checkbox"/> <b>Petition To Revive or Withdraw Holding of Abandonment</b>	Petition To Revive An Abandoned Application	Open: Docket Items	Petition Due : 05/08/2006			Edit -- Add --
<input type="checkbox"/> <b>Notice of Abandonment Received</b>		Completed	Date Mailed : 02/08/2006	Date Received : 02/10/2006		Edit -- Add --
<input type="checkbox"/> <b>Supplemental Information Disclosure Statement</b>	Supplemental Information Disclosure Statement	Open: Docket Items	Supplemental IDS Due : 02/02/2006			Edit -- Add --
<input type="checkbox"/> <b>Office Action Response</b>		Completed	Date Done : 05/13/2005	Date Received		Edit -- Add --
<input type="checkbox"/> <b>Office Action Received</b>	Non Final Office Action Received	Completed	Date Mailed : 04/19/2005	Date Received : 04/22/2005		Edit -- Add --
<input type="checkbox"/> <b>Information Disclosure Statement Due</b>		Completed	Date Done : 03/26/2004			Edit -- Add --

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